

Public Hearing

Proposed Regulations Governing Beach Protection and the Use of Beaches (7 DE Admin. Code 5102)



The History of the Beach Preservation Act and the Regulations Governing Beach Protection and the Use of Beaches



March 1962



Beach Preservation Act in 1972

Title 7, Chapter 68

General Assembly recognized that Delaware's beaches were rapidly deteriorating due to a combination of both natural processes and continual encroachment of man.

Declared the beaches to be “valuable natural features which provides recreational opportunities and storm protection for persons and property”...



“Development and habitation of the beaches must be done with due consideration given to the natural forces impacting upon them and the dynamic nature of those natural features”

Our Charge

To enhance, preserve and protect the public and private beaches of the State.

To mitigate beach erosion and minimize storm damage



- **July 26, 1973** - Adopted interim regulations
- **May 6, 1974** -Regulations Governing Beach Protection and the Use of Beaches
- **August 13, 1981**-Regulations were revised, which incorporated the mapped building line
- **December 27, 1983** - Current regulations



The Beach Preservation Act has
been amended since 1983



July17, 1984

Amendment to the Beach Preservation Act :

- redefined “Beach”
- added definitions
- incorporated the building line concept of regulating
- defined the power to enhance, preserve, and protect private beaches to include the prevention and repair of damage from erosion in an emergency
- revised the penalty provisions



April 30, 1996

Amendment to the Beach Preservation Act:

Amendment established that in commercialized areas of Rehoboth Beach and Bethany Beach which contain no natural dune system, the building line shall be consistent with the line of construction established by existing structures i.e. the boardwalk.



June 27, 1996

Amendment to the Beach Preservation Act:

“If any structure proposed to be built in whole or in part seaward of the building line could reasonably be reduced in size or otherwise altered in order to eliminate or diminish the amount of encroachment over the building line, the Department shall require such reduction or alteration as a condition of granting the permit or letter of approval.”

A policy was created to be used as guidelines for reasonably reducing in size or altering to lessen encroachment seaward of the Building Line.



June 15, 2006

An Amendment to the Beach Preservation Act:

- Removed the perimeter of the Rehoboth, Indian River and Assawoman Bays from the law
- Modified the definition of Building Line (NGVD to vertical datum commonly used by land surveyors)
- Allows for rebuilding within old footprint where State and Federal agencies are constructing and maintaining dunes and there is a standard level of storm protection
- Defines “regulated area” and “substantial damage”
- “repairs” as a trigger to DNREC oversight is removed and property owners’ right to repair is clarified.



History of our last effort to revise the Regulations



- Start Action Notice: May 21, 2003
- Three Workshops:
 - July 1, 2003 in Dover
 - July 16, 2003 in Rehoboth
 - March 16, 2005 in Rehoboth
- Published to the Register: November 1, 2005
- Two-part Public Hearing:
 - December 14, 2005
 - January 13, 2006
- DNREC withdrew the proposed regulations on October 12, 2006



History of the Current Proposed Regulations Governing Beach Protection and the Use of Beaches



Start Action Notice approved by Secretary O'Mara

April 30, 2014



May 2014 Regulatory Advisory Committee (RAC) formed

- Designer – Gregory Hastings
- Beachfront Homeowner – Chuck Coltman
- Ocean Beach Community Leader – Joe Healy, Town of Bethany Beach
- Builder (ocean coast) – Patty McDaniel, Boardwalk Builders
- Builder (bay coast) – Bryan Elliott, Integrity Homes
- Environmental Group – Brian Boutin, The Nature Conservancy
- Building Official – John Schulties, Kent County Inspections and Enforcement
- Municipal Official – Sharon Lynn, City Manager, Rehoboth Beach
- Realtor – William Lucks, Delaware Association of Realtors



RAC (cont.)

- Delaware Coastal Programs – Tricia Arndt, Environmental Scientist
- State Planning Coordinators Office – Connie Holland/Dorothy Morris
- Coastal Expert – Evelyn Maurmeyer, CER, Inc.
- Department of Justice – Ralph Durstein, Deputy Attorney General
- Alliance of Bay Communities - Jim Bailey, Broadkill Beach
- DNREC – Michael Powell, Program Manager
- DNREC – Tony Pratt, Administrator
- DNREC – Jennifer Luoma, Responsible Staff Member



Regulatory Advisory Committee Meetings

- May 14, 2014
- June 11, 2104
- July 9, 2014
- August 13, 2014
- September 10, 2014
- October 9, 2014
- December 10, 2014
- January 14, 2015
- March 11, 2015
- June 10, 2015
- October 14, 2015



Town Officials Workshop

- January 30, 2015

Presentation made to Realtors

- January 21, 2015



Public Workshops

- October 31, 2014, 2 PM to 4 PM – Slaughter Beach Fire Hall
- November 1, 2014, 10 AM to Noon – Rehoboth Beach Commissioner's Room
- May 1, 2015, 2 PM to 4 PM – Carlisle Fire Hall, Milford
- May 2, 2015, 10 AM to Noon- Bethany Beach Town Hall
- September 25, 2015, 2 PM to 4 PM – Milton Pubic Library
- September 26, 2015, 10 AM to Noon – Bethany Beach Town Hall



Proposed Regulations published by the State Register of Regulations on October 1, 2015



Next Steps

- Comments related to the proposed Regulations
- Comment Period
- Hearing Officer writes report
- Makes recommendation to Secretary of DNREC
- Drafts Order
- Secretary either adopts, adopts with changes or rejects Order
- If adopted regulations go into effect 10 days after final regulation is published by State Register of Regulations.



Comments may be submitted to:

Lisa A. Vest, Hearing Officer

DNREC

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Dover, DE 19901

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